

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MAY 19, 2010**

**C-1    Call to Order / Roll Call**

The City Council Closed Session meeting of May 19, 2010, was called to order by Mayor Katzakian at 6:00 p.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Absent: None

Also Present: Interim City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

**C-2    Announcement of Closed Session**

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6
- b) Pursuant to Government Code §54956.9(c); Conference with Legal Counsel; Anticipated Initiation of Litigation Challenging North Stockton I-5 Widening Environmental Impact Report; Parties are the City of Lodi and the California Department of Transportation; One Case

**C-3    Adjourn to Closed Session**

At 6:00 p.m., Mayor Katzakian adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:54 p.m.

**C-4    Return to Open Session / Disclosure of Action**

At 7:05 p.m., Mayor Katzakian reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), negotiating direction was given.

Item C-2 (b) was discussion only.

**A.    Call to Order / Roll call**

The Regular City Council meeting of May 19, 2010, was called to order by Mayor Katzakian at 7:05 p.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Absent: None

Also Present: Interim City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

**B.    Pledge of Allegiance**

C. Presentations

C-1 Quarterly Update by the Greater Lodi Area Youth Commission (COM)

Josh Gums, member of the Greater Lodi Area Youth Commission, gave an update to the Council on its activities and accomplishments. Mayor Katzakian presented the following Teen of the Month certificates: March 2010 – Kristina Rostomily; and April 2010 – Samantha Hills.

D. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Mounce made a motion, second by Council Member Johnson, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

D-1 Receive Register of Claims in the Amount of \$4,639,585.30 (FIN)

Claims were approved in the amount of \$4,639,585.30.

D-2 Approve Minutes (CLK)

The minutes of April 27, 2010 (Shirtsleeve Session), May 4, 2010 (Shirtsleeve Session), May 5, 2010 (Special Meeting), and May 11, 2010 (Shirtsleeve Session) were approved as written.

D-3 Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (CM)

Accepted quarterly report of purchases between \$5,000 and \$20,000.

D-4 Approve Request for Proposals and Authorize Advertisement for Municipal Service Center Compressed Natural Gas Fueling Station Maintenance Contract and Upgrade of Compressor Control Panel; and Adopt Resolution Approving Purchase of Compressor Parts from GreenField, of Richardson, Texas, and Appropriating Funds (\$22,000) (PW)

Approved the request for proposals and authorized advertisement for Municipal Service Center compressed natural gas fueling station maintenance contract and upgrade of compressor control panel; and adopted Resolution No. 2010-60 approving the purchase of compressor parts from GreenField, of Richardson, Texas, and appropriating funds in the amount of \$22,000.

D-5 Adopt Resolution Approving the Purchase of 60,000 Feet of Underground Cable to Pacific Utilities Supply, of Pleasant Hill, CA (\$116,251.67) (EUD)

Adopted Resolution No. 2010-61 approving the purchase of 60,000 feet of underground cable to Pacific Utilities Supply, of Pleasant Hill, CA, in the amount of \$116,251.67.

D-6 Adopt Resolution Approving the Purchase of Caterpillar Multi-Terrain Loader with Attachments from Holt of California, of Stockton (\$67,628.14), and Appropriating Funds (\$75,000) (PW)

Adopted Resolution No. 2010-62 approving the purchase of Caterpillar multi-terrain loader with attachments from Holt of California, of Stockton, in the amount of \$67,628.14 and appropriating funds in the amount of \$75,000.

D-7 Adopt Resolution Awarding Contract for 2010 Storm Drain Improvements Project to Mazingo Construction, Inc., of Oakdale (\$222,900), and Appropriating Funds (\$268,000) (PW)

Adopted Resolution No. 2010-63 awarding the contract for 2010 Storm Drain Improvements Project to Mazingo Construction, Inc., of Oakdale, in the amount of \$222,900, and appropriating funds in the amount of \$268,000.

D-8 Adopt Resolution Awarding Contract for 2010 Street Improvements Project to Granite Construction Company, of Stockton (\$886,885), and Appropriating Funds (\$1,064,262) (PW)

Adopted Resolution No. 2010-64 awarding the contract for 2010 Street Improvements Project to Granite Construction Company, of Stockton, in the amount of \$886,885 and appropriating funds in the amount of \$1,064,262.

D-9 Adopt Resolution Authorizing the City Manager to Execute Purchase Order with Eaton Pumps Sales and Service, of Woodland, for Repairs to City Water Well No. 7 (\$36,640) (PW)

Adopted Resolution No. 2010-65 authorizing the City Manager to execute purchase order with Eaton Pumps Sales and Service, of Woodland, for repairs to City Water Well No. 7 in the amount of \$36,640.

D-10 Adopt Resolution Authorizing the Interim City Manager as a Signer on City of Lodi Farmers & Merchants Bank Accounts and Authorize Interim City Manager Bartlam, Deputy City Manager Ayers, and Management Analyst Evans to Execute the Corporate Authorization Resolution and Electronic Transfer Corporate Resolution (CM)

Adopted Resolution No. 2010-66 authorizing the Interim City Manager as a signer on City of Lodi Farmers & Merchants bank accounts and authorized Interim City Manager Bartlam, Deputy City Manager Ayers, and Management Analyst Evans to execute the corporate authorization resolution and electronic transfer corporate resolution.

D-11 Authorize the City Attorney to Issue "Comfort Letter" to Pine Street Partners LLC in Connection with the Purchase of Property at 212 West Pine Street and 211 West Oak Street (CA)

In response to Mayor Pro Tempore Hitchcock, City Attorney Schwabauer stated the City previously issued comfort letters to three buyers in the Central Plume area stating that if they purchase the property the City will not sue them for liability as a successor to someone who may have generated hazardous waste on site. Mr. Schwabauer stated the City does reserve the right to sue if the situation is exacerbated and the downside of the waiver is the presumption that the property was purchased at a discounted rate due to the contamination.

In response to Mayor Pro Tempore Hitchcock, Mr. Schwabauer stated since the City is no longer suing over PCE/TCE there really is no downside to the waiver.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, to authorize

the City Attorney to issue a "Comfort Letter" to Pine Street Partners LLC in connection with the purchase of property at 212 West Pine Street and 211 West Oak Street.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

D-12 Adopt Resolution Approving Program Guidelines for the First Time Home Buyer Loan Program (CD)

Adopted Resolution No. 2010-67 approving the program guidelines for the First Time Home Buyer Loan Program.

D-13 Set Public Hearing for June 2, 2010, to Consider the Appeal of Noe Juarez Luna Regarding the Decision of the Planning Commission to Deny a Use Permit for a Pool Hall/Nightclub at 651 North Cherokee Lane, Suite E (CD)

Set public hearing for June 2, 2010, to consider the appeal of Noe Juarez Luna regarding the decision of the Planning Commission to deny a Use Permit for a pool hall/nightclub at 651 North Cherokee Lane, Suite E.

D-14 Set Public Hearing for July 21, 2010, to Consider Adopting Resolution Setting Usage-Based and Flat Water and Wastewater Rates for Residential, Commercial, and Industrial Customers and Meter Installation Charges (PW)

Set public hearing for July 21, 2010, to consider adopting resolution setting usage-based and flat water and wastewater rates for residential, commercial, and industrial customers and meter installation charges.

E. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

None.

F. Comments by the City Council Members on Non-Agenda Items

Council Member Hansen discussed receiving \$42.5 million in Proposition 1B and federal funding for I-5 improvements, which will include state of the art technology and cement, funding award for I-205 improvements, and the mosaic tile project for the City Council.

Council Member Johnson discussed dissolving the Green Belt Task Force, receiving a status report on the local City Managers group reviewing the pension and retirement system, and the need to address maintenance of bank-owned properties.

A brief discussion ensued between Council Member Johnson and Mayor Pro Tempore Hitchcock regarding dissolving the Green Belt Task Force and agendizing the matter for further discussion.

G. Comments by the City Manager on Non-Agenda Items

Interim City Manager Bartlam stated that a water meter installation video is now available online on the City's website.

H. Public Hearings

H-1 Public Hearing to Introduce an Ordinance Amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by Adding a New Section 13.20.320 Titled, "Schedule NST - New Sales Tax Economic Development Rate" (EUD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Katzakian called for the public hearing to consider introducing an ordinance amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by adding a new Section 13.20.320 titled, "Schedule NST - New Sales Tax Economic Development Rate."

Interim City Manager Rad Bartlam briefly introduced the subject matter of the New Sales Tax (NST) Rate Discount.

Interim Electric Utility Director Ken Weisel provided a PowerPoint presentation regarding the NST Rate Discount. Specific topics of discussion included the goals of the program, qualifications to participate in the program, discount amount, and the time line associated with implementing the discount.

In response to Council Member Mounce, Mr. Weisel stated he did not believe the discount would increase costs because fixed costs are more than 10% and the discount is only available for a maximum of two years.

In response to Mayor Pro Tempore Hitchcock, Mr. Weisel stated the discount does exclude new construction as written and the intent is to attract businesses to vacant properties around town.

In response to Council Member Hansen, Mr. Weisel confirmed that the proposed discount does not impact residential customer rates.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, to introduce Ordinance No. 1830 amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by adding a new Section 13.20.320 titled, "Schedule NST - New Sales Tax Economic Development Rate."

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

I. Communications - None

J. Regular Calendar

J-1 Continue to Receive and Review the Draft Fiscal Year 2010/11 Financial Plan and Budget (CM)

Interim City Manager Rad Bartlam briefly introduced the subject matter of the Fiscal Year 2010/11 departmental budget presentations.

Police

Interim Police Chief Gary Benincasa provided a presentation regarding the Police Department budget. Specific topics of discussion included an overview of the current and upcoming year departmental budget, changes in the budget, General Fund ratio, funded and unfunded positions, service adjustments, accomplishments, and emphasis for next fiscal year.

In response to Council Member Hansen, Chief Benincasa stated that, out of 113 positions, the department is down 12 positions, 5 positions are sworn, and 2 out of the 4 are filled with COPS grants.

In response to Council Member Hansen, Chief Benincasa stated the COPS funding was used for two existing positions and two new positions that are in training.

In response to Mayor Pro Tempore Hitchcock, Chief Benincasa stated that, while there was a spike in gang activity in March, it seems to be coming down as it is usually cyclical in nature and increased enforcement had a significant impact.

In response to Mayor Pro Tempore Hitchcock, Deputy City Manager Jordan Ayers confirmed that on page 49 the unfunded compensatory time off is covered and shown to increase so that the liability is addressed and funded.

Fire

Fire Chief Kevin Donnelly provided a presentation regarding the Fire Department budget. Specific topics of discussion included an overview of the current and upcoming year departmental budget, changes in the budget, General Fund ratio, funded and unfunded positions, service adjustments, accomplishments, and emphasis for next fiscal year.

In response to Council Member Hansen, Chief Donnelly stated there were some challenges with dispatch but great strides were made and everyone together made it work.

In response to Council Member Hansen, Chief Donnelly stated the cross training and some overtime ability has helped with dispatch.

In response to Council Member Hansen, Chief Donnelly stated the fire trucks do now have the mobile computer terminals.

In response to Council Member Hansen, Chief Donnelly stated the impact of the brown outs is seen in morale and the ability to respond to multiple calls at one time. Chief Donnelly stated the department is learning to better manage its resources and call on mutual aid more often, which is still minimal because it is the larger calls that require all resources to be committed.

In response to Council Member Hansen, Mr. Ayers stated \$68,000 is budgeted for Battalion Chief overtime but he expects the groups will continue to discuss options for reducing overtime over the long run.

In response to Mayor Pro Tempore Hitchcock, Chief Donnelly stated the department may be able

to forego training during the upcoming fiscal year to assist with budget challenges but will not have an ability to forego training over an extended period of time.

In response to Mayor Pro Tempore Hitchcock, Mr. Ayers stated medical benefits are up about 6% across the board based on best estimates.

#### Public Works

Public Works Director Wally Sandelin provided a presentation regarding the Public Works Department budget. Specific topics of discussion included an overview of the current and upcoming year departmental budget, changes in the budget, General Fund ratio, funded and unfunded positions, service adjustments, accomplishments, and emphasis for next fiscal year.

In response to Council Member Johnson, Mr. Sandelin stated any unspent bond proceeds will be brought back to Council at mid-year review.

In response to Council Member Hansen, Mr. Sandelin stated there should not be further reductions in transit, revenues and expenditures should be about the same, Sunday service statistics will come back as requested, and he has not heard anything further from the State on taking transit funds although the gas tax impacts remain unknown.

In response to Council Member Hansen, Mr. Sandelin stated over the last two years there has been a steady decline in fleet size and staff is accelerating maintenance appointments to address the concern of aging vehicles. He stated staff is also assessing the functions and operations at the shop.

In response to Council Member Hansen, Mr. Sandelin stated costs since the new facility was built are pretty flat, there will be a substantial savings from the solar power, and staff is reviewing options for eliminating swing shift or outsourcing some services for comparative purposes.

In response to Mayor Katzakian, Mr. Sandelin confirmed that the general fleet is comprised of older vehicles.

In response to Council Member Johnson, Mr. Sandelin stated the adjustment of two positions is a dollars and cents issue and not related to union concessions.

In response to Mayor Pro Tempore Hitchcock, Mr. Ayers and Mr. Sandelin confirmed that line 7188 on page 89 reflects General Fund staff charging out to the appropriate projects, which is based on specific tracking and software usage. Mr. Sandelin stated the 2010/11 increase is related to water meters and approximately \$90 million is assessed to capital projects.

In response to Mayor Pro Tempore Hitchcock, Mr. Ayers confirmed that the move to non-departmental includes expenditures occurring in another line item.

#### J-2 Adopt Resolution in Support of Measure C Allowing North San Joaquin Water Conservation District to Impose and Collect Groundwater Charge (PW)

Interim City Manager Bartlam briefly introduced the subject matter of the Measure C related item.

Public Works Director Wally Sandelin provided a brief PowerPoint presentation regarding Measure C allowing the North San Joaquin Water Conservation District to impose and collect groundwater charge. Specific topics of discussion included the 2007 groundwater charge, voter approval of Measure V overturning groundwater charge, Measure C seeking restoration of ability to adopt groundwater charge in future, and the impact to the utility of \$200,000.

In response to Council Member Hansen, Mr. Sandelin confirmed both the City and the District draw from the underground water table and it is a regional issue.

In response to Council Member Mounce, Mr. Sandelin stated the consideration for Council is to what degree the City would like to participate in solving the regional issue. Mr. Sandelin stated agencies are concerned that if they do not exercise their water rights then they may lose such rights and those rights could go to the Delta instead.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated the measure itself does not impose a tax and therefore there is a level of misinformation that is being disseminated to the public.

The following individuals spoke in support of Measure C based on a variety of reasons, including but not limited to, the ability to put water back into the ground, preservation of water rights, and the measure not imposing a tax: Tom Hoffman, Aaron Lang, Craig Ledbetter, Brad Lange, Richard Prima, Sandra Starr, and Brooklyn and Joe Peterson.

The following individuals spoke in opposition to Measure C based on a variety of reasons, including but not limited to, the method of the groundwater recharge, imposition of a tax, and weighted voting: Roberto Martinez, Bryan Pilkington, and Angela Nicolini.

In response to Mayor Pro Tempore Hitchcock, Mr. Pilkington stated the District already has the ability to pursue landowner charges and has sufficient funding for groundwater infrastructure.

In response to Council Member Johnson, Mr. Pilkington confirmed regardless of the Council decision, the citizens will have an opportunity to approve or disprove Measure C and the concern is about weighted voting.

In response to Council Member Hansen, Mr. Lange stated surface water is preferred over pumping water out of the ground, the conveyance system needs to transport water to the land for application, and the current system is in disrepair. Mr. Lange also provided an overview of landowners being responsible for usage and replacement based on what they may or have the potential of using. He stated it is his opinion that if the measure does not pass agriculture will suffer.

In response to Council Member Johnson, Mr. Lange stated the best option is to use and apply the water. He stated other options may be putting the water back into the ground or putting it into a creek and letting it soak.

In response to Council Member Mounce, Mr. Prima stated if the District loses its water rights it is possible that those rights could simply disappear rather than go to another agency in the area.

In response to Council Member Mounce, Mr. Prima stated the District is very large, it is unlikely that there will ever be enough money to provide the water to everyone in the District, the District will need to look at grants and property owners who want to participate in the program, and the system includes groundwater recharge, creeks, and distribution system upgrades.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-68 in support of Measure C allowing North San Joaquin Water Conservation District to impose and collect groundwater charge.

VOTE:

The above motion carried by the following vote:



Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

J-3 Adopt Resolution to Grant Designated Period for Two Years Additional Service Credit (CM)

Human Resources Manager Dean Gualco provided an overview of the proposed resolution to grant the two years additional service credit as provided in the staff report.

In response to Mayor Pro Tempore Hitchcock, Mr. Gualco stated the savings from the positions will be approximately \$131,000, the firefighter position will remain unfunded and the captain position will be back-filled, and it will be several months into the fiscal year before the current position is promoted into the captain position.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2010-69 to grant designated period for two years additional service credit.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

J-4 Adopt Resolution of Intention Approving an Amendment to the Contract Between the Board of Administration of the Public Employees' Retirement System (PERS) and the City of Lodi and Introduce Ordinance Amending the Contract Between PERS and the City of Lodi with Regard to Providing Section 20903 (Two Years Additional Service Credit) for Local Police Members (CM)

Human Resources Manager Dean Gualco briefly discussed the proposed amendment to the contract with CalPERS providing an option to offer the two-year service credit to the Police Department.

In response to Mayor Pro Tempore Hitchcock, Mr. Gualco confirmed that the proposal only offers an option to provide the benefit and does not require the same.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2010-70 of Intention approving an amendment to the contract between the Board of Administration of the Public Employees' Retirement System (PERS) and the City of Lodi and to introduce Ordinance No. 1831 amending the contract between PERS and the City of Lodi with regard to providing Section 20903 (two years additional service credit) for local Police members.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

J-5 Authorize Interim City Manager to Engage Jones Hall for Bond Counsel Services Related to Surface Water Treatment Plant (CA)

City Attorney Schwabauer provided a brief overview of the need to engage Jones Hall as Bond Counsel for services related to the surface water treatment plant based on the firm's competitive rate and reputation for providing a good service.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Hansen, to authorize Interim City Manager to engage Jones Hall for bond counsel services related to surface water treatment plant.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

K. Ordinances - None

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:07 p.m. in memory of Pamela Mae Clark and Reverend Raymond C. Knapp, who both passed away on May 3.

ATTEST:

Randi Johl  
City Clerk